

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 7, 1997

DIVISION ONE

[illegible]

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

B110612 People (Not for Publication)
v.
Guzman

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B108385 People (Not for Publication)
v.
Clayton

The judgment is modified to strike appellant's award of 48 days of precommitment credit and to impose in its place an award of 84 days, consisting of 56 days of actual custody credit and 28 days of conduct credit. The superior court is directed to send an amended abstract of judgment to the Department of Corrections reflecting such modification. As modified, the judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION TWO

B098947 Hsu (Not for Publication)
v.
Parks

The order denying relief from the default judgment is reversed. Appellant must file his answer to the first amended complaint within 30 days after this court issues its remittitur. On remand, the trial court may impose appropriate penalties as specified in Code of Civil Procedure section 473, subdivision (c). Parties to bear their own costs on appeal.

Boren, P.J.

We concur: Fukuto, J.
 Nott, J.

B104160 Davis, et al. (Not for Publication)
v.
L.A. County Sheriff's Department, et al.

The judgment is affirmed.

Fukuto, J.

We concur: Boren, P.J.
 Ito, J. (Assigned)

B104813 People (Not for Publication)
v.
Bueno

The Court:

The judgment is modified to provide for an award of presentence credits consisting of 438 days actual custody credit, with conduct credit on the attempted murder, assault with a firearm, and robbery counts limited pursuant to Penal Code section 2933.1 to 15 percent, or 65 days, and to provide that the presentence conduct credit on the sentence for receiving stolen property is not governed by Penal Code section 2933.1 and therefore not subject to the 15 percent limitation. In all other respects, the judgment is affirmed.

Boren, P.J., Fukuto, J., Nott, J.

October 7, 1997-Continued

DIVISION TWO (Continued)

B099240 Johnson (Not for Publication)
v.
Meacham

The judgment is affirmed.

Fukuto, J.

We concur: Boren, P.J.
 Nott, J.

B109937 Kritt (Not for Publication)
v.
Encino Country Club Apartments, et al.

The judgment is affirmed.

Fukuto, J.

We concur: Boren, P.J.
Ito, J. (Assigned)

B105425 Gill Distribution Centers, Inc. (Not for Publication)
v.
Pirelli Tire Corporation

The summary judgment is affirmed.

Fukuto, Acting P.J.

We concur: Nott, J.
Zebrowski, J.

DIVISION TWO (Continued)

B101459 Sunseri (Not for Publication)
v.
Macro Cellular Partners

The order of March 21, 1996, dismissing appellant's complaint with prejudice is reversed to permit a limited retrial on the question of whether appellant is guilty of contempt and, if so, to determine the penalty which should be imposed. In all other respects, the order is affirmed. Appellant's petition for writ of certiorari or other writ of review is denied. The parties shall bear their own costs on appeal.

Fukuto, J.

We concur: Boren, P.J.
Zebrowski, J.

[illegible]

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

[illegible]

The order under review is affirmed.

Fukuto, Acting P.J.

We concur: Nott, J.
Zebrowski, J.

DIVISION TWO (Continued)

B093696 Vu (Certified For Publication)
v.
California Commerce Club, Inc., et al.

Filed order certifying opinion for publication and denying petition for rehearing.

DIVISION THREE

B110943 Los Angeles County, D.C.S. (Not for Publication)
v.
Parvin D.

The orders are affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B102974 Claire Z. Hanna (Not for Publication)
v.
Farmers Group, Inc.

Summary judgment is affirmed as to the third cause of action for wrongful termination in violation of public policy. As to the first cause of action for employment discrimination, the second cause of action for employment retaliation, the fourth cause of action for breach of the employment agreement, and the fifth cause of action for breach of the implied covenant of good faith and fair dealing, the judgment is reversed and the cause remanded to the trial court for further proceedings. Costs are awarded to appellant.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B089319 Claire Hanna (Not for Publication)

v.

Farmers Insurance Group, et al.

As to Egan, we affirm the grant of partial judgment on the pleadings, reverse the grant of a new trial as to the cause of action for intentional infliction of emotional distress, and order judgment entered in favor of Egan as to all causes of action.

As to Benuzzi and Howell, we reverse the grant of a new trial on the cause of action for intentional infliction of emotional distress, and order judgment entered in favor of Benuzzi and Howell as to that cause of action. As to Benuzzi and Howell, we affirm the grant of partial judgment on the pleadings as to Hanna's causes of action bases on Government Code sections 12941, subdivision (a) and 12940, subdivision (a), and order judgment entered in favor of Benuzzi and Howell as to those causes of action.

As to Benuzzi and Howell, we reverse the grant of partial judgment on the pleading on Hanna's cause or causes of action based on Government Code section 12940, subdivisions (f) and (h)(1), and remand for trial of those causes of action.

As to Farmers, the grant of a new trial is affirmed and the matter is remanded for retrial.

On remand, the trial court should entertain a motion to consolidate retrial of this cause with trial of remaining causes of action in Los Angeles County Superior Court Case No. BC123492, Appeal No. B102974.

The parties are ordered to pay their own costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B112904 Los Angeles County, D.C.S. (Not for Publication)

v.

Bennie H.

The Court:

The appeal is dismissed.

Klein, P.J., Kitching, J., Aldrich, J.

B102954 People (Not for Publication)

v.

Hammond

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B092818 People (Not for Publication)

v.

Martinez
Gonzalez

The Court:

The judgments are affirmed.

Klein, P.J., Kitching, J., Aldrich, J.

DIVISION THREE (Continued)

[illegible]

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B105421 People (Not for Publication)
v.
Sams

The judgment of conviction in case no. GA027133 and the judgment (order revoking probation) in case no. GA015350 are affirmed. The matter is remanded for resentencing in accordance with the views expressed herein. In so doing, this court specifically expresses no opinion on the sentence to be imposed or the manner in which the trial court should exercise its discretion.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B103455 People (Not for Publication)
v.
Smith

The judgment of conviction is affirmed and the matter is remanded for resentencing in accordance with *People v. Superior Court (Romero)*, supra, 13 Cal.4th at pages 529-530. In so doing, this court specifically expresses no opinion on how the trial court should exercise its discretion or the sentence to be imposed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

October 7, 1997-Continued

DIVISION FOUR

[illegible]

The judgment is affirmed.

Baron, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

100236 CNA Insurance Company (Certified for Publication)
v.
Workers' Compensation Appeals Board
Navigators Insurance Company and Long Beach Water Concessions, Inc.

Writ denied. Costs on appeal are awarded to real parties in interest.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B095423	Good v. Rifkind	(Not for Publication)
B096297	Rifkind v. Cohn	

The judgment in favor of Good and against Rifkind on the complaint is reversed. The case is remanded for a new trial in accordance with the views expressed in this opinion. Good and Rifkind are to bear their own costs. The judgment in favor of Cohn and against Rifkind on the cross-complaint and the orders pertaining to the award of attorney fees are affirmed. Cohn is awarded costs on appeal.

Baron, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

DIVISION FOUR (Continued)

B106619 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Marcella R.

The order is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

DIVISION FIVE

B105583 Anthony Aulisio Jr., as Trustee, etc. (Not for Publication)
 v.
 Aegis Financial Group, Inc. et al.

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B109369 People (Not for Publication)
 v.
 David Lee Martin

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B104141 Ronald Hood (Not for Publication)

v.

Hacienda La Puente Unified School District, et al.

We reverse the judgment as to the County of Los Angeles, Alice Johnson, Diane Hitchcock and Kevin Johnsen, but affirm the judgment as to the district. The county and the individual defendants are to recover their costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B100244 People (Not for Publication)

v.

Richard J. Mysels

The judgment is reversed only as to sentencing and remanded for resentencing; in all other respects, the judgment is affirmed.

Godoy Perez, J.

I concur: Armstrong, J.
I dissent: Turner, P.J. (Opinion)

B106600 Richard Avila

v.

William Chua, M.D., Monterey Park Hospital et al.

Filed order denying petition for rehearing.

B096827 Sustaaf Van't Hof

v.

Metropolitan Water District et al.

Filed order denying petition for rehearing.

DIVISION SIX

B105716 Miles Joel Kaplan (Certified for Partial Publication)

v.

SLO Co. District Atty Child Support

The judgment is affirmed. Costs on appeal are awarded to respondents.

Gilbert, J.

We concur: Stone, P.J.

 Yegan , J.

B106212 Service Employees Int'l

v.

City of Santa Barbara

Filed order modifying opinion. Petition for rehearing is denied. (No
Change in Judgment.)

DIVISION SEVEN

B103972 People (Not for Publication)

v.

Nunez

The judgment is modified by striking a single one year enhancement,
reducing appellant's total sentence to 17 years. As modified, the judgment
is affirmed.

Neal, J.

We concur: Lillie, P.J.

 Johnson, J.

October 7, 1997-Continued

DIVISION SEVEN (Continued)

B102566 People (Not for Publication)
v.
Bowen

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B107568 People (Not for Publication)
v.
Golden

The judgment is modified to provide that appellant is entitled to 227 days of precommitment custody credit, 112 days of precommitment conduct credit, and 675 days of post-commitment custody credit, a total of 1,014 days of credits, as opposed to the 903 computed by the trial court. The superior court shall cause an amended abstract of judgment to be sent to the Department of Corrections reflecting the modification in the judgment. As modified, the judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B104266 People (Not for Publication)
v.
Vargas

The abstract of judgment is ordered corrected to show 562 days “Actual Local Time” (not 556 days), 84 days “Local Conduct Credits” (not 67 days), and 646 “Total Days” (not 623 days). Additionally, in “2. ENHANCEMENTS charged and found true TIED TO SPECIFIC COUNTS” the entire entry concerning count III is ordered stricken. As corrected, the judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B111775 People (Not for Publication)
v.
McCarter

The judgment is affirmed as to that part of the order requiring appellant to add four good behavior credits and four work performance credits to respondent's classification score, for a total of eight prior incarceration credits. That part of the order requiring appellant to add eight minimum custody credits is reversed, and the cause remanded to the superior court to enter a modified order deleting the order for eight minimum custody credits in Box 74.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

B110876 Southern California Gas Company (Certified for Publication)
v.
California Occupational Safety and Health Board
Division of Occupational Safety and Health

The judgment of the superior court is reversed, and the cause remanded to the superior court with directions to enter a new and different judgment granting the requested writ of mandate. Appellant shall recover its costs on appeal.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B110637 In re Nicholas M., a minor (Not for Publication)
 Alicia A.
 v.
 Superior Court, Los Angeles County
 (Los Angeles County, D.C.F.S., r.p.i.)

Let a peremptory writ of mandate issue compelling the juvenile court to vacate its order setting a date for the selection and implementation hearing pursuant to section 366.26, to appoint an expert pursuant to section 730 of the Evidence Code, and following submission of the expert's report to hold further proceedings consistent with this opinion. The petition is otherwise denied.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

B104176 People (Certified for Publication)
 v.
 Nelson

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

B109069 People (Not for Publication)
 v.
 Hernandez

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.